

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

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| STATE OF TEXAS; STATE OF LOUISIANA, <i>Plaintiffs,</i> v. UNITED STATES OF AMERICA, <i>et al.</i> , <i>Defendants.</i> | Case No. 6:21-cv-16 |
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PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit the following Notice of Supplemental Authority to advise the Court of the opinion in *Arizona v. Biden*, --- F.Supp.3d ----, No. 3:21-cv-314, 2022 WL 839672 (S.D. Ohio Mar. 22, 2022) (Newman, J.) (attached as Exhibit A).¹

This opinion explains that court's order preliminarily enjoining enforcement of the same agency action challenged in this case (and why it denied DHS's motion to dismiss). It addresses the same issues pending before the Court after the bench trial: why States have standing (*id.* at *9–14); why the challenged agency action is final agency action (*id.* at *23–25); why States are within the zone-of-interests (*id.* at *25–26); why specific provisions of immigration law do not preclude review (*id.* at *21–23); why the agency action is not committed to agency discretion by law because “shall” is mandatory language and 8 U.S.C. § 1226(c) and 8 U.S.C. § 1231(a)(1)(A) are statutory commands not within executive discretion (*id.* at *14–21, 26); why the reasons in the

¹ Westlaw currently indicates that this opinion is authored by the magistrate judge rather than Judge Newman. This is incorrect (as is clear in the slip opinion available on PACER), and Westlaw has been notified. The corrected entry on Westlaw should be available next week.

“Considerations Memo” fail arbitrary-and-capricious review (*id.* at *26–32); why the challenged agency action was required to undergo notice-and-comment rulemaking (*id.* at *32–36); and the scope of relief (*id.* at *36–40).

Date: March 25, 2022

Respectfully submitted.

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CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this response, exclusive of the matters designated for omission, is 244, as counted by Microsoft Word.

/s/ Ryan D. Walters
RYAN D. WALTERS

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on March 25, 2022, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ Ryan D. Walters
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